

MINUTES

NATURAL RESOURCES COMMISSION

September 11-12, 2003

American Legion
610 W. Munising Avenue
Munising, MI

PRESENT FOR THE COMMISSION

Jim Campbell
Keith Charters, Chairman
Paul Eisele, Vice Chairman
Bob Garner
John Madigan
Bill Parfet
Frank Wheatlake

PRESENT FOR STAFF

K. L. Cool, Director
Hal Martin, Legal Counsel
George Burgoyne, Resource Management Deputy
Jim Ekdahl, Upper Peninsula Field Deputy
Department Staff

COMMITTEE OF THE WHOLE

Chairman Charters called the Committee of the Whole meeting of the Natural Resources Commission (NRC) to order at 3:00 p.m. on Thursday, September 11, 2003. The Committee of the Whole is a working session of the NRC.

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Chairman Charters requested a moment of silence in memory of **Rick Asher, Chief, Law Enforcement**, who passed away on August 27, 2003.

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The Natural Resources Commissioners wished **Penny Bacon, Assistant to the U.P. Field Deputy Jim Ekdahl**, a Happy Birthday.

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Chairman Charters requested a moment of silence in memory of all of those who lost loved ones on September 11, 2001.

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Chairman Charters thanked **Commissioner Madigan** for planning the commercial trap-net familiarization trip for Commissioners and staff earlier in the day.

TRAILS UPDATES

Chocolay Township Trail

Mindy Koch, Chief, Forest, Mineral and Fire Management Division, reported that the DNR is currently pending appeal on the Chocolay Township use of snowmobiles or motorized use. The DNR has been granted an expedited appeal; however, no timeframe has been set. **Hal Martin, Office of the Attorney General and Legal Counsel to the NRC**, reported that the State filed a motion to expedite the appeal based on the fact that the DNR did not want to lose another snowmobiling season on the trail if possible. He said it is hoped that the appeal will be heard yet this fall.

Gaylord to Cheboygan Trail – Mullett Lake Segment

Mindy Koch reported that the State of Michigan has approximately 1000 miles of rails-to-trails that have been acquired for recreational use. It is the DNR's desire to develop an integrated network of trails. The corridors provide long distance recreation opportunities and have always been designed for multiple uses. Approximately 10 percent of the total rails-to-trails system is designated for nonmotorized use, most of which are located in southern Michigan. She stated that, when a trail corridor is open to snowmobile activity, it provides the DNR with advantages that are not available on solely nonmotorized use. If snowmobile activity is to occur on the trail, it is more likely that timely development of the trail will occur. This is based on the fact that the DNR relies on partnerships and funding for that development. There are no user-pay systems for nonmotorized trails.

Regarding the Gaylord to Cheboygan Trail, approximately 12 miles of the 45-mile trail along Mullett Lake is designated for nonmotorized use. Ms. Koch stated that 260 properties have been identified in trespass along the 12 mile stretch. The DNR is proceeding on a detailed survey of the trail to more specifically identify trespass and to delineate DNR ownership relative to riparian rights. Within the summer months, Ms. Koch reported 50-120 users are on the trail daily. In the winter, that number is reduced to approximately 17 users per day and limited to cross-country and snowshoe users and limited to mostly local users. This 12 mile stretch is undeveloped. The Indian River to Gaylord portion of the trail, south of the 12 mile stretch, is developed and is utilized by approximately 350-400 users per day in the summer and approximately 1000 snowmobilers per user-day in the winter. **Ms. Koch** believes that if the 12 miles of the Mullett Lake stretch were developed, the daily use would increase to 450-500 nonmotorized users per day in the summer. The increased use would be primarily bicyclers. Increased use on the total length of the trail is predicted to increase based on continual development on the trail. She predicted that, by opening up the 12 miles along Mullett Lake to snowmobiles, there would be an estimated 1400 users per user day on the Gaylord to Cheboygan Trail.

Ms. Koch believes that increased trail use suggested a greater return on investment. If a trail segment can be developed, there are opportunities for grant dollars and partnerships for trail maintenance. The Committee that was developed to address the 12 mile segment of the Trail was granted an extension to the end of this year to develop recommendations on this issue which would mean that the earliest the trail could be open to snowmobiling activities, if at all, would be the 2004-2005 season.

Commissioners Parfet and Wheatlake committed to become involved in the issue of the 12 mile Mullett Lake stretch of the trail and move forward on making the Cheboygan to Gaylord Trail one contiguous trail. They will tour the full 12 miles of that segment and present to the NRC what the issues are, what the original vision was, results, what the investment was originally, what the return-on-investment was and what the options are. This information will be provided within three

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months. Discussion ensued. **Commissioner Wheatlake** stated that he wants a defined snowmobile route.

PINE RIVER AND UPPER MANISTEE RIVER - NATURAL RIVERS UPDATE

Steve Sutton, Fisheries Division, Natural Rivers Program, presented an update on public comment received on the Natural Rivers designations since the August NRC meeting. Nineteen comments have been received of which eight were in opposition of the designation, including the Michigan Association of Counties, 10 were supportive and one recommended a change in vegetation management on state-owned lands. **Mr. Sutton** noted one change that had been made from the drafts provided in August. This change created an allowance for habitat management within vegetation buffer on state-owned lands. He stated that existing agricultural activities are grandfathered in and will be able to continue if approved. Discussion ensued.

PROPOSED CONSTITUTIONAL AMENDMENT

Dennis Knapp, Legislative Liaison, reported on a proposed constitutional amendment to create a new Michigan Recreational Water Trust Fund. The proposed intent of this amendment is to protect the Waterways Funds that have been a target of raid in the past. He stated that this new trust fund will be composed of all the funding from watercraft registration fees, fees from moorage at State facilities, all fees from State public access sites, all marine fuel tax revenue, and all of the assets of the current State Waterways Fund, Harbor Development Fund and Marine Safety Fund. The proposal will allow expenditure of interest, earnings and up to 33 1/3 percent of the annual revenues of those sources for construction, operation and maintenance of recreational boating facilities, grants to local units of government, water safety education, administration and enforcement of all the watercraft laws and program administration for the Harbor program. The fund would cap out at a maximum of \$250 million. It also creates a paid Chief Executive Officer position. It eliminates the existing Waterways Commission and creates a new Recreational Water Trust Fund Board using the similar positions of the makeup of the Waterways Commission. The Board would determine how money in the fund would be expended and would submit them to the Legislature. It also creates eligibility for private entities that offer public access to be eligible for grants. It does not provide funding for Payment in Lieu of Taxes. This issue would require a 2/3 vote of both the House of Representatives and the Senate to go on the ballot.

Mr. Knapp stated that, currently, approximately \$30 million of revenue are expended annually, and the proposed amendment will only allow about one-third or \$10 million to be spent. This amendment would reduce the waterways program and impact and change marine safety programs. The goal of this amendment is to protect the fund from raids. This issue will be discussed in detail at the September 29 meeting of the NRC Policy Committee on Finance and Administration.

Chairman Charters recommended that Legislation should be created that simply stated that these funds should be protected.

FISHERIES REGULATIONS UPDATE

Todd Grischke, Fisheries Division, reported no changes have been made from Fisheries Orders that were presented For Information Only in August, and they are being presented for action.

Relative to the Lake Erie fishing regulations, **Mr. Grischke** reported that the Order is presented for information in September. Based on a significant public input, changes will be made to the order and it will be resubmitted for action in October.

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Kelley Smith, Chief, Fisheries Division, commented on the possibility of recommending changes to the order, to modify the season as a trade-off for bag limits.

Commissioner Garner reported he had received a letter of support for Lake Erie Fishing Regulation changes from **Terry Picard of the Lake Erie Fisheries Citizen Advisory Committee**.

FO-225 is an order that the Director put in place last year to implement special lake trout regulations in Munising Bay. The order is due to expire on March 31, 2004, at which time lake trout regulations on Munising Bay will revert back to the provisions found in FO-200. Fisheries Division recommends that FO-225 be extended another year and will be submitting this order For Information Only in October.

Mr. Grischke noted one last change to the proposed Fisheries Orders. This change is to FO 227 – Taking of Wigglers. The closure will be June 1 through September 1 rather than through September 31, which was stated in error.

Discussion ensued relative to coaster brook trout reintroduction in several Lake Superior streams.

PERSONNEL ISSUES

Director Cool acknowledged **Captain Curtis Bacon** and noted he has been appointed Acting Law Enforcement Division Chief. Since Captain Bacon resides in the Upper Peninsula (UP), taking this responsibility and spending time in Lansing will be a great sacrifice. Director Cool thanked him for taking on this position.

Captain Bacon reported that Lieutenant Alan Marble has been promoted to the Staff Captain position. Law Enforcement is in the process of filling vacancies.
The Committee of the Whole meeting adjourned at 4:20 p.m.

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REGULAR MEETING OF THE NATURAL RESOURCES COMMISSION

Chairman Charters called the regular meeting of the Natural Resources Commission (NRC) to order at 4:25 p.m.

PUBLIC APPEARANCES

Dan Cook, South Shore Fishing Association, commented that, as a result of the dam break in Marquette, fishers have to travel 15 miles from Marquette to catch fish and it is diminishing the fishery. He requested that a substantial coho salmon plant be done in Lake Superior to revive the fishery. He stated that the South Shore Fishing Association is working on a project of penning fish and releasing them in an imprinted condition. Penning projects such as theirs have had a survival rate of 7-15 percent in Lake Michigan. The DNR has awarded the Association a contract to pen 100,000 fish for the spring of 2003 and beyond. They now need the fish.

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Chairman Charters recognized **Senator Prusi**.

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George Lindquist, U.P. Whitetails of Marquette County, stated that the two-buck rule has been tried by the group and they do not believe it works. He recommended that a one-buck rule be enacted stating that the two buck rule causes hunters to shoot the first buck they see, which generally is a yearling, then do not fill their second tag because so few bucks survive the 1.5 yearling stage. He presented an Association Resolution which requested both a one-buck rule and to allow bow hunters a combination tag with one tag being antlerless only, the other being their one-buck tag for the year.

Douglas Miron, Alger County Fish and Game Alliance, questioned why the oversight in the 2000 consent decree negotiations for tribal fishing in Munising Bay has not been corrected; whether the DNR monitors for total allowable catch (TAC) in Munising Bay; and whether the NRC should have decision-making jurisdiction over fishing.

Commissioner Madigan stated that the DNR will be reviewing Munising Bay fishing results and decide whether emergency order-type actions are necessary.

Kelley Smith stated that TAC for tribes is posted on the DNR web site.

Cynthia Pryor, Yellow Dog Watershed Preserve, expressed concern with the leasing of State-owned mineral rights on the Yellow Dog Plains in Michigamme Township of Marquette County. She asked that the DNR deny any further leasing of state mineral rights in this area and surrounding areas, as well as any further applications/nominations of leasing state mineral rights in this already encumbered state forest, especially as the State of Michigan has no policy, legislation, or mine permitting processes for reclamation of underground mining lands in the current act relative to reclamation of Mining Lands.

Mindy Koch commented that a significant number of leases have been issued for the "Yellow Dog Project," over 4000 acres at this point. The leasing process utilized for metallic minerals is the same as used for oil and gas. Surface reviews and threatened and endangered species reviews are conducted and each program division is given the opportunity to make recommendations. The State has not had new metallic mineral lease proposals in a number of years. The process, however, is closely reviewed by the DNR. She does not believe the company referred to by Ms. Pryor, is close to deciding on whether leases will be requested.

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Representative Tom Casperson and Senator Michael Prusi welcomed the NRC and DNR staff to their districts.

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John Ford, MUCC, presented the Michigan United Conservation Clubs' position on supplemental feeding in the UP as follows: Until time when it is determined what is the factor in spreading disease, MUCC respectfully requests the NRC to revisit and reconsider its previous action on the ban of supplemental feeding in the UP.

Dale McNamee, Upper Peninsula Sportsman's Alliance, commended Commissioner Madigan for addressing the issue of supplemental feeding before the full NRC. He requested that another vote of the NRC be taken on that issue. **Mr. McNamee** supports allowing feeding of deer to keep them alive during severe winter weather conditions and until natural habitat can be developed to sustain them.

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Commissioner Madigan stated that a private individual has offered to purchase an 8500 acre parcel that included 3500 acres which the Habitat Committee was interested in purchasing. The State did not get the opportunity to purchase the 3500 acres. The DNR is in the process of looking for other property to purchase for habitat management.

Don Canfield, Luce County, does not believe that feeding causes TB. He stated that their club began a deer feeding program in a scientific manner allowing them to maintain a deer population. **Commissioner Madigan** said that Mr. Canfield serves on the Habitat Committee and appreciates his input. **Mr. Canfield** believes that the deer will die of starvation without feeding.

Rich Bowman, Trout Unlimited, stated that Trout Unlimited discussed mineral leases on the Yellow Dog Watershed and do not oppose issuing the leases, but would like further discussion of what can be done relative to requirements of leases on private land. He also requested that, even if all technology exists stating there is no threat to the environment from this type of mining, it is important to note that this area has similarities to the Pigeon River areas. The big difference is that with leases on privately-owned lands, it opens the area up to development. He asked that State leases be processed in the same manner as with the Pigeon River leases in that the infrastructures would have to be removed and the area restored to its pre-mining condition.

Mr. Bowman commented that he agrees with the concerns of the DNR relative to House Joint Resolution J. He intends to work with the DNR on this issue.

Alan Ettenhoffer, U.P. Whitetails Association, does not believe that the presentation regarding New Zealand diseases at the MUCC Convention in Marquette can be compared to the Upper Peninsula because of migration and winter severity index. He said that they cannot go further with deer feeding if they want to maintain a deer population. He requested that the DNR reconsider banning supplemental feeding in the UP.

Jay Maki, Michigan United Conservation Clubs, requested that the NRC reverse its previous decision regarding baiting. He stated that a major problem in Luce County and the surrounding area is predators decimating the deer herd. He asked that the coyote season be moved back to overlap with deer season.

John Herman, Munising, questioned the background of trap net fishing in Munising Bay and why it is allowed. He questioned why tribal conservation officers do not monitor fishing in Munising Bay.

He requested that the NRC pass a resolution opposing the ban on motorized boats in the Wilderness Area designation in the Beaver Basin/Beaver Lake in Pictured Rocks National Lakeshore.

Jim Ekdahl, Upper Peninsula Field Deputy, stated that staff is looking into the wilderness designation issue and how it may impact the DNR's ability to manage the fishery.

Andy Ronis, Munising, requested that the issue of tribal gill netting in Munising Bay be corrected.

John Hongisto, U.P. Trappers Association, stated that the Association has had problems dealing with the Furbearer Workgroup. He asked that the meetings of the Furbearer Workgroup be held on weekends.

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The Natural Resources Commission meeting adjourned at 6:04 p.m. on Thursday, September 11, 2003 and reconvened at 8:30 a.m. on Friday, September 12, 2003.

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Chairman Charters thanked **Commissioner Madigan** for his hospitality while the NRC is in Munising.

DIRECTOR'S/STAFF REPORTS

Director Cool thanked Commissioner Madigan for arranging the opportunity for staff and the NRC to meet with their UP constituents.

Director Cool attended the International Association of Fish and Wildlife Agencies (IAFWA) Conference in Madison, Wisconsin. He reported that the Tom Bennett, Commissioner of the Kentucky Department of Fish and Wildlife, is the new president of the IAFWA whose primary focus for the future will be on outdoor education. **Director Cool** reviewed with him what Michigan has done with the 4th Grade Education Program (LAPs) over the past three years and was invited to present the program to the group.

Mindy Koch reported that three joint Legislative hearings will be held on the overview of forestry management in Michigan. **Commissioner Eisele** said there is a real interest in certification of forestry products on State land. **Commissioner Wheatlake** said it is imperative that the DNR controls this process rather than the Legislature and any participation by Commissioners is important. **Commissioner Eisele** plans to attend at least one of the hearings and said it is important to move forward and be proactive.

Becky Humphries reported that an interim Wildlife Conservation Order on Falconry was approved by Director Cool that adjusts the falconry season by one day, to 107 days, to be in compliance with the federal framework.

NATURAL RIVERS DESIGNATIONS – PINE AND UPPER MANISTEE RIVERS

Director Cool believes that the DNR staff has allowed adequate opportunity for public comment and he is confident that all views have been considered on the proposal presented today. This has been a long-term process.

Director Cool solicited comments from Commissioners and they responded as follows:

Commissioner Garner: Supports the Designations and Management Plans;

Chairman Charters: Supports the Designations and the Management Plans;

Commissioner Eisele: Supports the Designations and the Management Plans with the conditions that variances are an option in certain cases;

Commissioner Parfet: Supports the Designations and Management Plans and is convinced that the DNR has provided adequate due process and that variances will be handled in an appropriate manner;

Commissioner Campbell: Supports the Designations and Management Plans to create uniform regulations for property owners;

Commissioner Madigan: Supports the Designations and Management Plans because he believes adequate due process occurred;

Commissioner Wheatlake: Supports the Designations and Management Plans as a means to protect the resources of the State.

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Director Cool presented a DNR position statement on the proposed Designations and Management Plans:

"Governor Granholm's recently completed Land Use Task Force focused the public on an issue of significant importance to the state of Michigan: our population is continually expanding into rural settings, and unmanaged expansion and development in what had been green space has potentially dire implications for the future of a state that prides itself on abundant, unspoiled natural resources.

Mr. Chairman and Commissioners, today on behalf of the DNR, I am presented with an opportunity to leave a legacy for the People of the State of Michigan. This opportunity speaks to the founding tenants of this agency's mission. After a decade of hard work by resource professionals from nearly every DNR Division, today I have in hand our staff's recommendation designating the Pine and Upper Manistee rivers for protection under Michigan's Natural Rivers Program.

The Natural Rivers Program has existed in Michigan since 1970 and presently protects 14 Michigan rivers. It works by limiting development on and immediately near the water. It incorporates local governments as management partners by providing them an opportunity to adopt zoning ordinances reflecting the development standards of their rivers' plans.

1988 was the last time we designated a river, the Fox River, under this program. Consider for a moment how much Michigan's northern Lower Peninsula has grown in the past 15 years.

With the growing popularity of recreational and retirement residences, the population density today on private lands in Michigan's northern Lower Peninsula is approaching the population density of private lands in the Southern Lower Peninsula. It is worth considering as we craft plans to protect our resources for tomorrow.

These proposed Natural Rivers designations are the product of a long, deliberative, inclusive, and responsive process. Over the past decade, department staff held more than 100 public meetings, presented these proposals at 11 informational meetings and hosted a dozen public comment hearings throughout the state. More than 1,000 Michigan residents submitted testimony. Support for these designations outweighed opposition by a 3-1 margin.

Many of the concerns voiced during the public comment period have been incorporated in the present recommendations. Setbacks of 150 feet along the Upper Manistee were reduced to 100 feet, responding to private landowner concerns. In response to suggestions from wildlife conservation groups, additional plan refinements provide flexibility on state lands to incorporate state-of-the-art wildlife and habitat management.

These designations provide a comprehensive framework under which local governments can exercise local control. They employ the best available science, yet retain flexibility for conservation professionals to ensure that resource protection meets future needs. And the enactment of these proposals ensures that, as Michigan continues to grow and expand, we can accommodate that growth while conserving two extremely high quality rivers for future generations.

*Those are three reasons to sign these orders. Here are three more:
The Saginaw River, the St. Joseph River and the Flint River.*

Since the creation of the Natural Rivers Act three short decades ago, the state of Michigan has spent millions of dollars to retrieve those once-pristine rivers from the brink of ecological disaster and start them on the road to recovery.

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I'm convinced it is wiser and less expensive to conserve and cooperatively manage these resources today than to ask our grandchildren to repair them tomorrow.

I intend to sign these orders. I am pleased to note that this marks the conclusion of a long designation process, but it is only the beginning of our work with the river's private landowners, the local zoning authorities and the current owners of the river itself, the citizens of Michigan to protect the Pine and Upper Manistee rivers. The Department pledges to work with local governments, conservation interests, and property owners in a partnership that improves these rivers today and preserves them for tomorrow."

Director Cool intends to approve the Natural Rivers Designations of the Pine and Upper Manistee Rivers and to approve the Natural Rivers Management Plans for the Pine and Upper Manistee Rivers.

Chairman Charters commended the efforts of Steve Sutton, Dan Pearson and Kelley Smith in this effort.

APPROVAL OF MINUTES – AUGUST 14-15, 2003 NATURAL RESOURCES COMMISSION MEETING

Commissioner Eisele made a motion, supported by Commissioner Garner, for approval. Motion unanimously carried.

NATURAL RESOURCES COMMISSION – PUBLIC APPEARANCE PROCEDURES

Chairman Charters adopted the revised Public Appearance Procedures as no adverse comments or recommendations for change were received from the Commissioners.

DIRECTOR'S ACTION ITEMS

Director Cool intends to sign all Director's Action Items on the Agenda.

COMMISSIONER REPORTS

Commissioner Parfet received several phone calls regarding: the Gaylord to Cheboygan Trail, Island Lake Shooting Range, supplemental feeding in the UP, Natural Rivers Act, and Lake Erie Fishing issues. He reported that the NRC Policy Committee on Finance and Administration will meet in Lansing on September 29.

Commissioner Garner spent a great deal of the month of September in the UP. He expressed appreciation to the DNR staff in Crystal Falls for keeping him in touch with DNR activities and for their hospitality. **Commissioner Garner** represented the NRC at memorial services held for Law Enforcement Division Chief Rick Asher who passed away. He said he was proud of the Conservation Officers who were present to honor Rick.

Commissioner Eisele represented the NRC at the UP State Fair; participated in the Nature Conservancy's tour of the Keweenaw Peninsula; and reported that the NRC Policy Committee on Land Management will meet on September 23 at the Waterloo Recreation Area.

Commissioner Madigan thanked the NRC for coming to Munising, his home town; expressed appreciation for staff efforts on the Lake Trout issue; is disappointed with the recent loss of the ability for the State to purchase 3500 acres of property in the UP which would have been utilized for habitat management; and attended a fishing tournament in Marquette. He also received several calls relative to DNR related issues.

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Commissioner Madigan read a letter from **Forrest N. Williams, President, Michigan Fish Producers' Association**, requesting that commercial fishermen be provided an equal allowable fishing depth as the tribal netters. He believes this would provide the State licensed fishermen a much needed boost in the State economy by increasing business revenues.

Pictured Rocks National Lakeshore

Commissioner Madigan made a motion, supported by Commissioner Campbell, opposing the National Park Service proposal to designate Beaver and Little Beaver Lakes as "wilderness areas," and the NRC recommends that any regulations changes should not be made without DNR Fisheries Division agreement. Motion unanimously carried.

Commissioner Reports (continued)

Commissioner Campbell received several phone calls relative to Island Lake Shooting Range, hunting and Lake Erie walleye regulations. He stated he will be going to Monroe County to discuss the proposed regulations on Lake Erie walleye.

Chairman Charters was disappointed with the loss of property in the UP for habitat management; and was disappointed that the DNR staff did not contact him relative to a bridge issue in Traverse City – a decision that he may have been able to assist in had he been notified in advance.

Chairman Charters thanked Donna Kolbus from Shooters Restaurant in Munising for providing food, beverages and hospitality to the NRC and staff while they were in Munising.

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The meeting adjourned at 10:10 a.m.

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